



September 15, 1999

Lieutenant Brad Lancaster
Amarillo Police Department
City of Amarillo
200 E. 3rd
Amarillo, Texas 79101-1514

OR99-2570

Dear Lieutenant Lancaster:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 127262.

The Amarillo Police Department (the "department") received two requests for Incident Report numbers 99-45495 and 99-16403. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. You have supplied the responsive information to this office for review. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code, reads in pertinent part:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:
 - (1) release of the information would interfere with the detection investigation, or prosecution of crime;
 - (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication

...

- (c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Section 552.108(a)(1) excepts certain information in cases currently being investigated or prosecuted. You relate “[i]n reference to report number 4595, enclosed is a notification from the Randall County Clerk showing that a pending prosecution exists for this case.” Texas courts have specified the information that must be released and that which may be withheld in such cases. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. – Houston[14th Dist.] 1975), *writ ref’d n.r.e. per curiam*; Open Records Decision No. 127 (1976). Information normally found on the front page of an offense report is generally considered public. *Id.* Thus, you must release the type of information that is considered to be front page offense report information, including a detailed description of an offense or arrest, even if this information is not actually located on the front page of the offense report. Although section 552.108(a)(1) authorizes you to withhold the remaining information in report number 4595 from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See Gov’t Code* § 552.007.

Section 552.108(a)(2) excepts certain information in cases that have reached a final result other than conviction or deferred adjudication. You argue that the subject information is “excepted from disclosure because the respective case investigations are concluded, but have not been adjudicated and therefore have not resulted in a conviction or deferred adjudication.” Incident report number 99-16403 includes the notation that this report has been presented to the city attorney and that the city attorney is seeking additional information before accepting the case for prosecution. You relate that the investigation in this case has concluded. However, while the case is not currently being investigated, it may remain subject to prosecution. If it is subject to prosecution, it has not been resolved, and therefore has no *result*. As it cannot be determined from the submitted information whether the case related to report number 99-16403 has been prosecuted or has been dismissed, we cannot ascertain whether this information relates to an ongoing prosecution or has concluded in a result other than conviction or deferred adjudication. As you have not demonstrated how an exception to disclosure applies to this report it must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "MJ Burns", with a stylized flourish at the end.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 127262

Encl. Submitted documents

cc: Ms. Amy Gallmeier
1001 S. Polk
Amarillo, Texas 79101
(w/o enclosures)